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February 14, 2007

### VIA FACSIMILE TRANSMISSION

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Office of the Corporation Counsel  
530 South King Street, Room 110  
Honolulu, HI 96813

Thomas E. Cook, Esq. [533-3011]  
841 Bishop St., Ste. 1800  
Honolulu, HI 96813

RE: The Estate of Erik A. Powell, etc., et al. v. City & County  
Civil No. CV04-00428 LEK

Dear Counsel:

I am in receipt of your facsimile letter dated February 14, 2007 regarding discovery and depositions. With regard to the deposition of former Mayor Harris, we are entitled to conduct the discovery that we deem necessary and again ask that you provide us with contact information or if you would prefer to have us subpoena him directly. If you continue to object to his deposition, please file the appropriate motion.

Based on your late and prejudicial notification that you intend to rely on Rule 30(a)(2)(A) of the Federal Rules of Civil Procedure, we will file the appropriate motion.

Our office has made numerous efforts to contact your office with regard to scheduling expert depositions and other witness depositions. On January 23, 2007, I contacted you via telephone in order to secure times and dates to depose your experts on the mainland via videoconference. You were to provide me with available dates. After much effort and time expended, our office was able to secure dates with videoconference facilities to depose Dr. Udinsky and Major Vic Maceo.

We are confident that the Court will grant our request to lift the limit on this 10-deposition maximum given the nature of the case and the disposition of the matter. Therefore, we would ask that you reconsider your position and permit us to conduct the necessary discovery

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in preparation for trial. Your delay in responding to our prior requests to schedule depositions is both prejudicial and dilatory.

Finally, we have made every effort to accommodate your schedule with regard to taking depositions of our experts at this late date. We would appreciate the reciprocal courtesies. We are in the process of securing time for Dr. Liptai's deposition via videoconference. Lastly, I note that your February 14, 2007 letter is the first indication that you wish to depose Dr. Roger Lukas.

If you would like to make a good faith effort to confer regarding these matters, please feel free to contact me.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Emily Waters".

EMILY KAWASHIMA WATERS

EKW:lwv